

REMARKS

In the Office Action dated June 9, 2004, claims 21, 31, 33, and 34 were rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,697,835 (Hanson); claims 1-3, 5, 7, 9-11, 13-16, 19, 23-25, 27-30, 32, and 35 were rejected under § 103 over Hanson in view of U.S. Patent No. 5,802,367 (Held); claim 26 was rejected under § 103 over Hanson in view of Held and U.S. Patent No. 5,748,896 (Daly); and claim 20 was rejected under § 103 over Hanson in view of Daly.

Based on the Declaration of Hoa Thu Tran and Matthew Dickey Under C.F.R. § 1.131 (hereinafter "Rule 131 Declaration"), the invention date of the present application is prior to the effective date of Hanson. The § 102(e) date of Hanson is October 28, 1999. As set forth in the Rule 131 Declaration, the conception date and reduction to practice date of the present invention occurred before October 28, 1999. In view of the foregoing, Hanson does not constitute prior art under § 102(e). Because the § 102 and § 103 rejections are based on Hanson (either alone or in combination with another reference), such rejections have been overcome.

Moreover, Applicant is also providing comments regarding defects in the § 103 rejections. It is respectfully submitted that, even if Hanson qualifies as prior art, a *prima facie* case of obviousness has not been established with respect to claim 1, for at least the reason that there existed no motivation or suggestion to combine the teachings of Hanson and Held. *See* M.P.E.P. § 2143 (8th ed., Rev. 2) at 2100-129.

Hanson describes a plurality of remote sites or nodes 11, 13, 15, 17 where data to be retrieved or accessed is spread across the respective nodes. Hanson, 2:62-64. Fig. 6 of Hanson illustrates a static startup process, whereas Fig. 7 of Hanson illustrates a dynamic startup process. Hanson, 8:16-19. In response to executing a program "Jobstart," a "Start Service" is called by Jobstart on each of the nodes. Hanson, 8:5-8. The Start Service performs loading and invocation of local runtime processes that includes a messenger and an agent. As conceded by the Office Action, Hanson fails to disclose the following element of claim 1: "determining one or more selected software components to start in each node." However, the Office Action relied upon Held as teaching this missing feature. The Office Action made the following conclusion:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Held and Hanson because the teaching of Held would improve the system of Hanson by determining the availability of a server code (Col. 6 Ln. 56-59).

6/9/2004 Office Action at 4.

This conclusory statement does not establish the motivation or suggestion, based on the knowledge that can be derived from the references, required for combining the teachings of Hanson and Held. There is absolutely no desirability or any need for incorporating the teachings of Held into the system of Hanson. Held describes that server code can be provided in two forms, as a dynamic-link library (DLL) or an independently executable program. Held, 5:40-43. When a client wishes to access an object, the client program requests a service control manager to execute server code. In response, the service control manager determines from a registration database whether the server code is available in the form of a server executable or a server DLL. Held, 6:52-59. Launching of the server code proceeds differently depending upon whether the server code is a server executable or a server DLL. Held, 6:59-7:2. The distinction between a server executable code and a server DLL code, as taught by Held, is completely irrelevant to the system described in Hanson. Hanson teaches that both a messenger code and an agent code must be loaded for proper running of the system described in Hanson. There is absolutely no need for the executable versus DLL determination described in Held in the Hanson system.

For at least this reason, a person of ordinary skill in the art looking to the teachings of Hanson and Held would not have been motivated to combine their teachings to achieve the claimed invention.

With respect to independent claim 13, the Office Action conceded that Hanson fails to disclose a manager module executable in the database system to invoke services to control starting of software components. However, reliance was made on Held as teaching this missing feature. The rationale for combining Hanson and Held was provided by the Office Action as follows:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Held and Hanson because the teaching of Held would improve the system of Hanson by determining the availability of a server code (Col. 6 Ln.56-59).

6/9/2004 Office Action at 6-7.

Again, such a conclusory statement does not satisfy the requirements of establishing a *prima facie* case of obviousness. There is simply no suggestion anywhere of any desirability or need to incorporate the teachings of Held regarding the manager module into the system of Hanson. A *prima facie* case of obviousness has thus not been established with respect to claim 13.

Allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees, including extension of time fees, and/or credit any overpayment to Deposit Account No. 50-1673 (9172).

Respectfully submitted,

Date: _____

9-9-04



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